IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 8012 OF 2006

Prakash Vasantrao Dhanvate & Anr.... Petitioners.

Versus

Surendra Ramchandra Gadve & Ors..... Respondents.

Mr. R. S. Kate for the Petitioners.
Mr. A.A.Garge i/by Mr. Mandar Limaye
for Respondent Nos.1 to 3.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard Mr. R.S.Kate, learned Counsel for the petitioners and Mr. A. A. Garge, learned Counsel appears for respondent nos.1 and 3.

2. Civil Suit No. 676 of 2001 which was filed for seeking decree of eviction on the ground of lease agreement being terminated by efflux of time came to be allowed by the learned 5th Additional Small Causes Court Judge and Joint Civil Judge, Senior Division, Pune. By the judgment and order passed by the learned trial Judge on 22nd February, 2005 the suit was decreed and the defendants were directed to handover

vacant and peaceful possession of the suit premises to the plaintiffs within two months. Aggrieved by the said judgment and order, the defendants filed Civil Appeal No. 270 of 2005 which came to be dismissed by the learned 8th Adhoc District Judge at Pune, vide his judgment and order dated 9th October, 2006.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order passed by the learned trial Court under the Maharanstra Rent Control Act, 1999 is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation

of delay, if any.

5. The status quo order granted earlier will continue to operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)